IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.6981 of 2005

Prayagbai Changdeo Jagtap ..Petitioner

vs.

1. Rasiklal Shantilal Mutha
and others ..Respondents

Shri S.S.Shah for petitioner.

CORAM: S.C.DHARMADHIARI J.
5th December,2007

P.C.

1. This petition challenges the order passed by the lower Appellate Court by which the application of the present petitioner for stay of the Trial Court's decree has been allowed in part. The lower Appellate Court has during the pendency of the appeal granted protection in as much as the decree for possession has been stayed. However, there are conditions which have been imposed by the lower Appellate Court while staying the implementation and execution of the subject decree. That order is under challenge. The petitioner's Advocate in all fairness states that the conditions could not be complied with. Even time sought to comply with the same was not granted.

2. In my view, considering the orders under challenge, lower Appellate Court was justified in imposing the conditions. It has observed that the decree was for possession of immovable property along with mesne profit. The respondent has succeeded in the suit. Therefore, the possession decree has been stayed by imposing certain conditions. They do not appear to be excessive or onerous. They are not stated to be incapable of being complied with either. In such circumstances, I find no reason to interfere with the orders under challenge. Petition is, therefore, dismissed.

(S.C.DHARMADHIKARI J.)